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Fifty-second session
Agenda item 142 (a)
ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING OF THE UNITED NATIONS PEACEKEEPING OPERATIONS: FINANCING OF THE UNITED NATIONS PEACEKEEPING OPERATIONS

Third-party claims

Reform of the procedures for determining reimbursement to Member States for contingent-owned equipment

Death and disability benefits

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the reports of the Secretary-General on the following subjects: (a) third-party claims (A/51/903); (b) reform of the procedures for determining reimbursement to Member States for contingent-owned equipment (A/51/967 and Corr.1); and (c) death and disability benefits (A/52/369).

2. During its consideration of the reports, the Committee met with representatives of the Secretary-General, who provided additional information.

I. THIRD-PARTY CLAIMS

3. The Advisory Committee notes that the Secretary-General's report of 21 May 1997 (A/51/903) was submitted pursuant to General Assembly resolution 51/13 of 4 November 1996, in which the Assembly requested the Secretary-General to develop specific measures, including criteria and guidelines for implementing the principles outlined in his report of 20 September 1996 (A/51/389) and to report thereon to the Assembly through the Advisory Committee.

4. The Advisory Committee also notes that the report (A/51/903) deals with third-party claims for personal injury, illness or death and property loss or damage attributable to the activities of members of peacekeeping operations in the performance of their official duties. It does not cover claims relating to troops nor does it apply in cases of injury to civilian staff. The Advisory Committee notes from paragraph 14 of the report that in cases of gross fault or wilful or criminal intent, the Organization would seek recovery from the individual or the troop-contributing State concerned.

5. The Advisory Committee recommends that the General Assembly endorse the modalities for establishing the financial and temporal limitations in legal binding instruments proposed in paragraphs 37 to 41 of the report. For the reasons stated by the Secretary-General, the Advisory Committee also recommends that the General Assembly consider the adoption of a resolution stipulating the temporal and financial limitations of the Organization as proposed by the Secretary-General in paragraph 47 of his report. Should such a resolution be adopted, the Advisory Committee recommends that its implementation be systematically monitored.

II. REFORM OF THE PROCEDURES FOR DETERMINING REIMBURSEMENT TO MEMBER STATES FOR CONTINGENT-OWNED EQUIPMENT

6. The Advisory Committee notes that the Secretary-General's report on reform of the procedures for determining reimbursement to Member States for contingent-owned equipment (A/51/967 and Corr.1) has been submitted pursuant to General Assembly resolution 51/218 E of 17 June 1997, in which, inter alia, the Assembly requested the Secretary-General to ensure that the contribution agreement fully reflects the reports of the Phase II and III Working Groups of Reimbursement of Contingent-owned Equipment and to issue an appropriate corrigendum to the agreement.

7. The Advisory Committee recalls paragraph 7 of its report of 4 November 1996 (A/51/646), in which it recommended that the legal implications for the United Nations of the use of the term "memorandum of understanding" be thoroughly explored. The Advisory Committee notes from paragraph 2 of the Secretary-General's report that the model contribution agreement as contained in the annex has been revised and is presented in the form of a memorandum of understanding between the United Nations and the participating State contributing resources to United Nations peacekeeping operations. The Advisory Committee was informed that the memorandum of understanding entailed legally binding rights and obligations and, once concluded, would be legally binding on the parties.

8. With regard to loss or damage of major equipment, from a single hostile action, the Advisory Committee notes from paragraph 17 (b) of annex B to the report that the troop-contributing country will assume liability for each and every item of equipment when the collective generic fair market value is below the value of $250,000.

9. The Advisory Committee was informed that the following paragraphs of annex B reflected changes in the text of the contribution agreement set out in the annex to the report of the Secretary-General of 9 July 1996 (A/50/995):

6.4, 14 and annex B, section 6, paragraph 17 (b). The Committee also draws attention to the replacement of paragraph 18 of annex E contained in the corrigendum to the report (A/51/967/Corr.1).

10. The Advisory Committee was further informed that the text as contained in the report had been reviewed further and that subsequent to the meeting with the Advisory Committee the following change to the draft text was now being proposed: in annex B, section 6, Loss or damage, paragraph 18 would read as follows:

> "In cases of loss or damage resulting from a single hostile action or forced abandonment, the United Nations will assume liability for each and every item of major equipment when the collective generic fair market value equals or exceeds the threshold value of $250,000."

III. DEATH AND DISABILITY BENEFITS

11. In section II, paragraph 6, of its resolution 51/218 E, the General Assembly requested the Secretary-General to submit a report to it no later than 31 October 1997 containing detailed implementation proposals, including administrative and payment arrangements and procedures, as well as proposals for administrative resource reductions resulting from the new, simplified system.

12. The report of the Secretary-General of 17 September 1997 (A/52/369) provides information on the proposed administrative arrangements for the processing of death and disability claims for incidents occurring from 1 July 1997 onwards and resource requirements relating to the administration of death and disability claims. Upon enquiry, the Advisory Committee was informed that as at 29 August 1997, since the inception of the recording system in 1992, out of 4,602 incidents that had occurred, 1,001 claims had been received by the Administration (314 relating to death and 687 relating to disability).

13. The Advisory Committee is of the opinion that the proposals of the Secretary-General will lead to a considerable simplification of procedures. The Committee recommends that the proposed administrative arrangements for the processing of death and disability claims, once approved by the General Assembly, should be reflected in a manual and that the implementation of the arrangements should be systematically monitored. In this connection, there is a need to ensure that appropriate guidelines are in place to determine what are not mission-incurred events; a clear definition of "accident" and "incident" is also needed.

14. With regard to staff resources, the Advisory Committee notes from paragraph 24 of the report that a total of three posts (one P-4, one P-2 and one General Service) and one gratis military officer perform the functions of processing of contingent-owned equipment claims and third-party claims, including processing of death and disability claims under the old procedures. In addition, general temporary assistance (equivalent to 12 months for one P-3 and one General Service post) is specifically earmarked for the processing of such claims and to eliminate the backlog. It is the view of the Advisory Committee that in order to ensure the expeditious processing of backlog claims,

adequate staff resources must be maintained, especially in view of General Assembly resolution 51/243 of 15 September 1997 on gratis personnel.

15. The Advisory Committee also points out that there is a need for adequate publicity on claims procedures, including specific information on the filing period and of the United Nations office to be notified.

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Fifty-second session
Agenda item 61
QUESTION OF CYPRUS

SECURITY COUNCIL
Fifty-second year

Letter dated 29 September 1997 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to draw your attention to new violations of the airspace of the Republic of Cyprus and of the flight information region of Nicosia by military aircraft of the Turkish Air Force, which took place on 10 and 12 September 1997.

On 12 September, from 0758 to 1110 hours, 15 Turkish military planes, 12 F-16 fighter jets and three C-160 planes violated the national airspace of the Republic of Cyprus, entering from the south-west and flying over Apostle Andreas Cape. From 0845 to 1134 hours the same planes once again violated the national airspace of the Republic of Cyprus, this time flying from the north-west, heading towards Turkey.

On 10 September, four F-16 Turkish fighter jets and one KC-135 Turkish military plane at 1635 hours violated the Nicosia flight information region, flying over the eastern Nicosia flight information region, and exited at 1707 hours heading in a north-westerly direction.

As stated in my previous letters, such unauthorized intrusions into the Nicosia flight information region and the airspace of the Republic are in violation of international air traffic rules and seriously endanger civil aviation flights over Cyprus. At the same time, they are in contravention of the provisions of the Security Council resolutions on Cyprus which state that such overflights increase political tension on the island and undermine efforts towards achieving a final settlement.

On behalf of the Government of the Republic of Cyprus, I wish to strongly protest against the new violations of the sovereignty and territorial integrity

of the Republic of Cyprus, which are in complete disregard of international law, the Charter of the United Nations and the relevant decisions of the Organization on the question of Cyprus.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda item 61, and of the Security Council.

(Signed) Nicos AGATHOCLEOUS
Ambassador
Permanent Representative of the Republic
of Cyprus to the United Nations

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Letter dated 1 October 1997 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

I have the honour to convey herewith a letter dated 29 September 1997 from His Excellency Mr. Glafcos Clerides, President of the Republic of Cyprus, addressed to you.

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 61, and of the Security Council.

(Signed) Nicos AGATHOCLEOUS
Ambassador
Permanent Representative

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ANNEX

Letter dated 29 September 1997 from the President of Cyprus addressed to the Secretary-General

I wish to refer to the letter dated 19 September 1997 from the Permanent Representative of Turkey to the United Nations addressed to you and circulated as a document of the General Assembly and the Security Council with regard to Turkey's views on the purchase by the Government of the Republic of Cyprus of a S-300 missile system (A/52/383-S/1997/732).

Beyond any doubt, the letter contains direct threats against Cyprus in case we proceed with the installation of the missiles and reflects the same aggressive attitude of Turkey against the Republic of Cyprus. These threats amount to a blatant violation of the peremptory norms of international law, the principles of the Charter of the United nations and in particular Article 2 (4), which prevents the threat or use of force, the numerous General Assembly and Security Council resolutions on Cyprus and the 1960 treaties establishing the Republic by which Turkey undertook to guarantee the independence and territorial integrity of Cyprus.

The letter, written and circulated on the eve of the United Nations-sponsored talks on 26 September between myself and Mr. Denktash to discuss security matters, reveals the true intentions of Turkey, which, once again, by its well-known tactics, attempts to deflect attention from the substantive issues of the Cyprus problem and the real cause that prevents your efforts in making progress towards finding a comprehensive, just and viable solution, i.e., the lack of political will of the Turkish side as reported by the then United Nations Secretary-General in his report to the Security Council of 30 May 1994 (S/1994/629). The same tactic was resorted to during the recent rounds of intercommunal talks at Troutbeck and Glion where, again, substantive progress was impeded, as the President of the Security Council stated on 20 August 1997, "by the attempt to bring in preconditions to the table by the other party and here of course I mean the Turkish Cypriots ...".

I wish to record with you my strongest protest at such illegal, unacceptable and aggressive threats, which if Turkey attempts to realize will certainly mean the end of peace.

I should also emphasize in this respect that, in view of this new provocative act, had I not agreed to do so, I would not have attended the talks on security matters last Friday, 26 September 1997. At the same time I wish to stress that, although I did honour my word to attend the security talks, in no circumstances would I accept to discuss matters relating to security under threat nor would I negotiate under duress.

It is not my intention to enter into a discussion with regard to the decision of my Government to buy the S-300 defensive missile system, because such a decision was made in the exercise of Cyprus' inalienable rights as a sovereign State, to self-defence and to decide on its armaments. These rights are not negotiable.

However, in view of the allegations contained in the said letter by which Turkey attempts to justify its unacceptable and unwarranted reaction to Cyprus' decision to purchase the missiles, I shall, once again, explain the reasons that made their purchase imperative.

The S-300 ground-to-air missile system is a purely defensive weapon, the technical characteristics of which give no reason to dispute its defensive nature.

The purchase of the system was made solely in order to meet the need to strengthen Cyprus' defence capability in view of the threat posed against it:

(a) By the continued Turkish military occupation of 37 per cent of the territory of the Republic of Cyprus;

(b) The increase, upgrading and modernization of the Turkish forces and their equipment. In this regard allow me to recall the assessment with regard to the occupied area of the then United Nations Secretary-General, who described it in his report to the Security Council of 7 June 1994 as "... one of the most highly militarized areas in the world in terms of the ratio between numbers of troops and civilian population" (S/1994/680, para. 28);

(c) The absolute air superiority and preponderant ground superiority of Turkey in Cyprus;

(d) The accentuated aggressive attitude exhibited by Turkey, culminating in the recent threatening statements by Turkish officials;

(e) The regular violation of the air space of Cyprus and the photographing of our defensive positions by the Turkish Air Force;

(f) The experience of the past when the Turkish Air Force bombed the towns and villages of Cyprus using napalm bombs.

The defensive intentions of my Government, with regard to the S-300 missile system, have been made very clear all along. Cyprus has repeatedly stressed that the system is in no way intended against any country or the Turkish Cypriots.

The undisputed proof of Cyprus' intentions lies in my proposal for the complete demilitarization of the Republic of Cyprus made in November 1993 and which addresses the security concerns of both the Greek Cypriot and Turkish Cypriot communities.

The proposal, if accepted by Turkey, would remove the reason that necessitated the purchase of the missiles.

What is also particularly insulting in the letter is the attempt by Turkey to give lessons to other countries about their international obligations. The sale to Cyprus of the S-300 missile system and the joint defence doctrine fall within the rights of sovereign States in accordance with international law. Before Turkey embarks on accusations against other States, it should first

conform itself to the fundamental rules of international law governing inter-State behaviour, as well as the basic principles and the Code of Conduct on Politico-Military Aspects of Security of the Organization for Security and Cooperation in Europe.

Before I conclude, allow me to point out that Turkey should be told to abandon its aggressive behaviour against the Republic of Cyprus and its intransigent position on the problem of Cyprus and focus its attention on the efforts exerted by you and supported by the international community, aimed at finding a comprehensive, just and viable solution to the Cyprus problem on the basis of international law, the Charter of the United Nations and resolutions on Cyprus and the high-level agreements of 1977 and 1979. If Turkey is sincerely concerned with the security of the Turkish Cypriots and peace and security in the wider region, the key lies with it to remove the cause that threatens them by withdrawing its occupation forces and settlers from the Republic of Cyprus and accepting my proposal for demilitarization.

The Government of the Republic and the Greek Cypriot side are firmly committed to the settlement of the Cyprus problem by peaceful means and I wish to assure you, once again, that I shall continue to cooperate with you in a spirit of good will and do my utmost so that your efforts bring about the desired result, which will enable all Cypriots to live in peace and harmony.

(Signed) Glafcos CLERIDES
President of the
Republic of Cyprus